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12 County of Sacramento

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15 **UNITED STATES DISTRICT COURT-BANKRUPTCY**
16
17 **EASTERN DISTRICT OF CALIFORNIA**

18 IN RE:

19 **Bankruptcy Action No.: 13-33139**

20 GARY GORSKI

21 **Chapter No. 7**

22 Debtor

23 **COMPLAINT IN INTERPLEADER**

24 COUNTY OF SACRAMENTO,

25 **Adversary Proc. No.: _____**

26 Plaintiff,

27 vs.

28 GARY GORSKI; ROBERT HUNTER;
1 HOWARD ELEY; DOUGLAS
2 WHATLEY, TRUSTEE IN
3 BANKRUPTCY for GARY GORSKI;
4 UNITED STATES OF AMERICA through
5 the Internal Revenue Service; COUNTY
6 OF YOLO, Defendants

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30 **I. INTRODUCTION**

31 1. This Complaint arises from a voluntary petition for bankruptcy filed in the United
32 States Bankruptcy Court, Eastern District of California, by petitioner Gary Gorski. Gorski is an
33 attorney who represented two parties in a previous civil action brought against the County of
34 Sacramento (“County”) in the United States District Court, Eastern District of California, *Hunter,*
35 *et al v. County of Sacramento, et al*, case no. 2:06-cv-00457-GEB. Plaintiffs in the civil action

1 were prevailing parties on a cause of action brought under 42 U.S.C. § 1983, and as a result were
2 awarded attorney's fees pursuant to 42 U.S.C. § 1988, in the amount of \$197,500.00. Gorski
3 claims half of the fee award as personal property in the schedules submitted. The bankruptcy
4 trustee, the Internal Revenue Service and the County of Yolo each claim a competing interest in
5 the award. The County acknowledges its obligation to pay the award but is exposed to multiple
6 claims. The County brings this action in interpleader seeking to deposit the funds with the
7 Bankruptcy Court and allow the court to adjudicate the multiple claimants rights among
8 themselves after dismissing the County.

9 2. Plaintiff believes and alleges that all causes of action in this Complaint are core
10 proceedings.

11 **II. JURISDICTION AND VENUE**

12 3. Jurisdiction is proper in this Bankruptcy Court pursuant to FRBP 7022(a)(1) and
13 28 U.S.C.A. § 1334(a).

14 4. Venue is proper pursuant to 28 U.S.C.A. § 1408.

15 **III. PARTIES AND FACTUAL ALLEGATIONS**

16 5. Plaintiff County of Sacramento is a municipal entity organized under the laws of
17 the State of California.

18 6. Defendant Gary Gorski is the debtor in this bankruptcy. Gorski has listed a one
19 half interest in the attorney fee award as an asset in his Amended Schedule B, filed 12/24/15, in
20 the amount of \$98,500.00 (Docket No. 63.) The basis of that claim is unknown.

21 7. Defendant Robert Hunter was a plaintiff represented by Mr. Gorski in the civil
22 action giving rise to the fee award at issue in this complaint in interpleader, and entitled to the fee
23 award by order of the District Court.

24 8. Defendant Howard Eley was a plaintiff represented by Mr. Gorski in the civil
25 action giving rise to the fee award at issue in this complaint in interpleader, and entitled to the fee
26 award by order of the District Court.

27 9. Defendant Bankruptcy Trustee Douglas Whatley has been appointed the United
28 States Trustee to act as trustee for debtor's estate (Docket No. 56.)

1 10. Defendant United States of America, is a government entity acting through the
2 Internal Revenue Service and a creditor in the bankruptcy case. On or about November 20, 2013,
3 the IRS caused to be served on the County a Notice of Levy, asserting that Gorski owed the IRS
4 the sum of \$297,298.23 and demanding that any property in the possession of the County, to
5 include any money owed be turned over to the IRS.

6 11. Defendant County of Yolo is a municipal entity organized under the laws of the
7 State of California and a creditor in the bankruptcy case. On or about October 23, 2013, the
8 County of Yolo, asserting a lien filed in the *Hunter v. County of Sacramento* civil action,
9 demanded that any payment to satisfy the order granting Hunter and Eley attorney's fees include
10 the County of Yolo as a payee.

11 12. The County of Sacramento has consistently taken the position that the order
12 granting payment of attorney's fees directs that the payment be made to Hunter and Eley. The
13 County does not dispute the obligation to pay the award. However, with Gorski having listed a
14 50% interest in the fee award as personal property in the schedules filed in this case, raising the
15 issue of whether that interest is now property of the bankruptcy estate, and having received
16 competing claims as to whatever interest Gorski may have, and without admitting the validity of
17 any such interest and claims, the County is faced with a situation where it is faced with multiple
18 claims on the award and potential liability to multiple parties.

19 13. The County stands ready to deposit the entire amount of the award with the
20 Bankruptcy Court.

IV. PRAYER FOR RELIEF

22 **WHEREFORE**, plaintiff prays judgment against defendants in interpleader, and each of
23 them, as follows:

24 a. That the defendants in interpleader be required to interplead and litigate among
25 themselves their claim to the fee award at issue.

26 b. That the bankruptcy court determine, and enter an order declaring, the proper
27 allocation of the fee award at issue. The County of Sacramento consents to the bankruptcy court
28 making a final judgment on the allocation.

1 c. That the County be dismissed from this action, with prejudice, following payment
2 of the fee award at issue into the registry of the bankruptcy court.

3 d. That the County be awarded its costs and attorney's fees in bringing this action to
4 be determined by the bankruptcy court and paid out of the proceeds.

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6 DATE: January 14, 2014

RANDOLPH CREGGER & CHALFANT LLP

7 */s/ Thomas A. Cregger*
8 THOMAS A. CREGGER
9 Attorneys for Plaintiffs
10 COUNTY OF SACRAMENTO

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